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Summary of responses to the questionnaire seeking the views of States and indigenous peoples on best practices regarding possible appropriate measures and implementation strategies in order to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples

Report of the Expert Mechanism on the Rights of Indigenous Peoples

Summary

The present document contains a summary of responses from States and indigenous peoples to the questionnaires seeking their views on best practices regarding possible appropriate measures and implementation strategies to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples, as requested by the Human Rights Council in its resolution 30/4.

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I. Introduction

1. In its resolution 18/8 of 2011, the Human Rights Council first requested the Expert Mechanism on the Rights of Indigenous Peoples to undertake, with the assistance of the Office of the United Nations High Commissioner for Human Rights, a questionnaire survey on best practices concerning appropriate measures and implementation strategies to attain the goals of the Declaration on the Rights of Indigenous Peoples. In its resolutions 21/24, 24/10 and 30/4, the Council requested that the Expert Mechanism continue to send out the questionnaire, in order to provide summaries of responses for presentation to the Council. The present report builds upon previous reports presented to the Council at its twenty-first, twenty-fourth, twenty-seventh and thirtieth sessions (A/HRC/21/54, A/HRC/24/51, A/AHRC/27/67 and A/HRC/30/54, respectively).

2. The questionnaire focuses on best practices in the areas of self-determination; participation in decision-making, including free prior and informed consent; languages and culture; non-discrimination and equality; lands, territories and resources; treaties, agreements and other constructive arrangements; and measures taken to promote and protect the rights of women, youth, children, elders, persons with disabilities and other vulnerable groups.

3. The questionnaires for States and indigenous peoples were designed to be as consistent as possible, as far as is reasonable, in order for the responses to be comparable and to promote potential partnerships between States and indigenous peoples in working towards the implementation of the Declaration. All of the questions put to States and indigenous people are reproduced below. The responses from States and indigenous peoples have also been placed on the website of the Expert Mechanism.[1]

4. The Expert Mechanism thanks all States who responded to this year's questionnaires. Responses were received from Australia, Bolivia (Plurinational State of), Canada, Cuba, Denmark and Greenland, Finland, Mexico, Peru and Romania.

5. The Expert Mechanism also thanks the following indigenous peoples, indigenous peoples' organizations and representative bodies, and non-governmental organizations for their responses: Agrupación de Derechos Humanos Xochitépetl A.C.; Associação União das Aldeias Apinajé-Pempxà; Bubi People of Bioko Island; Chemudep Organization of Kenya; World Amazigh Congress; FDAPID-Hope for Indigenous Peoples; Gudang Clan of far northern Cape York, Queensland; International Presentation Association; Organisation Tamaynut; Quixelos People.

II. Responses from States and from indigenous peoples

6. The present section summarizes the responses from States and from indigenous peoples to the questionnaire. It must be borne in mind that responses from States and indigenous peoples may have conflicting views on the benefits of measures adopted to implement the Declaration or the ideal strategies to achieve its implementation.

[1] See www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/QuestionnaireDeclaration.aspx

A. National implementation strategies

7. The questionnaire posed the following question: "Does the State have an overarching national implementation strategy to achieve the ends of the Declaration? If yes, please provide details about the implementation strategy, including how indigenous peoples have been involved. If not, are there any plans to develop one?"

8. This question is linked to the commitment that States have made in the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples to develop and implement national action plans, strategies and other measures to achieve the ends of the Declaration.

9. Australia stated that, while it did not have an overarching national action plan to achieve the goals of the Declaration, it was working to achieve those goals through implementing programmes and policies that had a direct connection with the articles and principles of the Declaration. Those policies and programmes had been outlined in responses to previous editions of the questionnaire.

10. Finland stated that, as the Declaration was not a legally binding instrument, it was not necessary to prepare and adopt a national plan of action or strategy to promote its objectives and effective realization. Nevertheless, as the Declaration was a political commitment, it was taken into account in national decision-making. For example, the Declaration was considered in the first national action plan on fundamental and human rights of 2012. The second national action plan on fundamental and human rights was currently being developed and would be focused on specific themes, such as the Sami people's right to participation. In Finland, all branches of government worked to integrate human rights into their work.

11. The Plurinational State of Bolivia stated that indigenous peoples' rights were enshrined in its Constitution, and both International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the Declaration were enshrined in the national Constitution. In the light of the outcome document of the World Conference on Indigenous Peoples, the Plurinational State of Bolivia had passed an economic and social development plan that incorporated the right to development of indigenous peoples. Indigenous peoples and communities were involved in the development of the plan, as well as in the preparation of the action plan to implement the rights of indigenous peoples in line with the outcome document.

12. Peru responded by highlighting the creation of the Ministry of Culture in 2010, the main State institution in charge of indigenous peoples' issues. The Vice-Ministry of Intercultural Affairs was the entity responsible for implementing specialized policies for indigenous peoples and providing technical assistance in consultation processes. It was also in charge of administering indigenous territorial reserves for indigenous peoples in voluntary isolation and initial contact.

13. According to Canada, it had committed to a renewed "nation-to-nation" relationship with indigenous peoples and would therefore be engaging with indigenous peoples, provinces and territories, industry and other sectors of Canadian society regarding the implementation of the Declaration in accordance with the Constitution. The ensuing consultations would then form the basis of an action plan. Canada had also committed to significant investment in support of the Truth and Reconciliation Commission's "Calls to Action" and the forthcoming inquiry on missing and murdered indigenous women.

14. Mexico monitored the extent to which legislation was consistent with the Declaration through the special programme for indigenous peoples 2014–2018, which was run by the National Commission for the Development of Indigenous Peoples. The

programme was aimed at promoting and monitoring legislation based on the Constitution, as well as international standards, including the Declaration.

15. Most indigenous peoples' organizations reported a lack of national strategies or plans of action to achieve the ends of the Declaration, although some did highlight specific policies to address certain provisions of the Declaration.

B. Self-determination and autonomy

16. The questionnaire posed the following question: "Have specific legislative, policy or administrative measures relating to self-determination and autonomy been adopted in your country? If yes, please provide details. If not, please outline any plans to develop legislative, policy or administrative measures in this area."

17. The importance of self-determination has been highlighted through the work of the Expert Mechanism, including in its studies on access to justice (see A/HRC/24/50 and Corr.1 and A/HRC/27/65). The Expert Mechanism has repeatedly maintained that self-determination is an essential element for the fulfilment of other rights.

18. In its response, Denmark and Greenland referred to the 2009 Act on Greenland Self-Government, details and a copy of which were attached to a letter dated 8 February 2010 submitted to the General Assembly under the agenda item on the implementation of the Declaration on the Granting of Independence to Colonial Peoples and Countries (A/64/676) during its sixty-fourth session. In the preamble to the Act, it was recognized that the people of Greenland were a people, pursuant to international law, with the right to self-determination. The Act was based on an agreement between the Naalakkersuisut (Government of Greenland) and the Government of Denmark as equal partners. It provided for Greenland to assume new responsibilities and introduced new arrangements for mineral resources and economic issues. The Act affirmed that the Greenland self-government authorities exercised legislative and executive power in the fields of responsibility attributed to it.

19. According to Australia, the country did not have specific legislative measures on self-determination. However, Australia was a party to seven core international human rights treaties that recognized the right to self-determination. Australia recognized that people have the right to internal self-determination as reflected in article 46 of the Declaration.

20. Article 289 of the Constitution of the Plurinational State of Bolivia enshrined the rights of indigenous peoples to self-governance and self-determination. The Plurinational State of Bolivia had a process in place for claiming indigenous autonomy that allowed for political, judicial, social, economic and cultural autonomy. In 2009, 11 indigenous municipalities had become autonomous through that process.

21. Peru highlighted policies and technical instruments for the protection of indigenous peoples in voluntary isolation and initial contact, including protection and monitoring of territorial reserves.

22. Under the constitutional framework of Canada, indigenous peoples' inherent right to self-government was recognized as an existing aboriginal right under section 35 of the Constitution. As such, self-government arrangements could be negotiated as part of modern treaties, which allowed indigenous peoples to govern their own internal affairs. Canada must consult with indigenous peoples where Crown actions could adversely affect protected treaty rights.

23. In Mexico, 23 states had recognized the right to self-determination and autonomy. Furthermore, the National Commission for the Development of Indigenous Peoples, together with the Electoral Tribunal of the Federal Judiciary, had conducted several

intercultural dialogues on indigenous legal systems, which had ensured that Tribunal staff were aware of the right to self-determination and autonomy of indigenous peoples and communities and that those principles were implemented on the ground.

24. Indigenous organizations mostly highlighted the lack of any legislation or plan to develop legislation in relation to the protection or promotion of self-determination and autonomy. Furthermore, an indigenous peoples' organization from Brazil reported that there were several proposals currently before the parliament that would undermine the rights of indigenous peoples.

C. Participation in decision-making and free, prior and informed consent

25. The questionnaire posed the following question: "Have specific legislative, policy or administrative measures been adopted to implement rights relating to participation in decision-making, including the obligation to seek free, prior and informed consent? If yes, please provide the details. If not, please outline any plans to develop legislative, policy or administrative measures in this area."

26. Finland responded that it was intending to revise the Act on the Sami Parliament (974/1995) and that the Ministry, in that context, would reiterate that the current obligation to negotiate under section 9 should be changed to better comply with the principle of free, prior and informed consent. Finland also referred to a State-owned enterprise, Metsähallitus, which conducted business activities on State-owned land and waters. Under the administering law, municipal advisory committees were appointed in the Sami homeland regions and they were composed of representatives from various bodies, including the Sami Parliament, the municipality, reindeer-herding cooperatives, the fisheries region and commercial fisheries. Those committees issued opinions to Metsähallitus.

27. Consistent with the Declaration, Australia recognized the importance of engaging in good-faith negotiations with indigenous peoples in relation to decisions that affected them. One example was the Empowered Communities initiative being implemented in eight regions across Australia. Australia also interpreted the principle of free, prior and informed consent as consistent with the territorial and political sovereignty of Australia.

28. The response of the Plurinational State of Bolivia highlighted the fact that the right to free, prior and informed consultation was established in the country's Constitution. The State also had a number of other pieces of legislation relating to consultation in the context of specific activities, such as extractive operations.

29. Canada responded that aboriginal treaty rights were protected under section 35 of the Constitution. The Supreme Court of Canada required the Crown to consult with indigenous peoples and accommodate where possible their interests in cases where indigenous constitutionally protected rights could be infringed. Canada would be undertaking a review, in partnership with First Nations, Inuit and Metis Nation, of laws, policies and operational practices to ensure the Crown was respecting those constitutionally protected aboriginal and treaty rights.

30. Mexico ensured that indigenous peoples were adequately consulted when the National Commission for the Development of Indigenous Peoples undertook its afore-mentioned monitoring of the extent to which legislation was consistent with the Declaration. For example, that consultation process was recently followed in Baja California, Baja California Sur, Durango, Sinaloa and Campeche.

31. Several indigenous peoples' organizations emphasized that free, prior and informed consent was either not referred to or was not well articulated in laws and policies and

provided examples of large-scale public works, such as hydroelectric dams, or extractive industries pursuing their activities on indigenous peoples' lands without their consent.

D. Participation of indigenous peoples in the development and implementation of legislative, policy or administrative measures that affect them

32. Finland responded that the Act on Metsähallitus, which included provision for municipal advisory committees in the Sami homeland, was drafted by a working group appointed by the Ministry of Agriculture and Forestry on 16 June 2013. That working group included representatives from the Sami Parliament and the Skolt Sami Village Council.

33. Australia engaged with a range of Aboriginal and Torres Strait Islander leaders, organizations and communities when designing policies and programmes and implementing services. One example was the National Aboriginal and Torres Strait Islander Health Plan 2013-2023, which recognized the importance of Aboriginal and Torres Strait Islander peoples' involvement in the planning, design and implementation of health services.

34. Denmark and Greenland stated that the 2009 Act on Greenland Self-Government demonstrated the commitment to and implementation of the Declaration. The Act required the Naalakkersuisut (Government of Greenland) to be heard on all other matters affecting Greenland and the Government of Denmark. It required all bills of the Government of Denmark that might be brought into force in Greenland to be submitted to the autonomous government for comments. The Government of Denmark was required to await those comments before presenting bills to the Danish parliament.

35. Peru reported on the establishment of a working group on public policies focusing on indigenous peoples, which was a space for participation and dialogue between indigenous peoples and the executive power to coordinate, propose and monitor such public policies. Peru also highlighted its quota system in place in certain departments and provinces to address the gaps in the political representation of indigenous peoples. Peru reported on consultation processes, pointing out that of 11 processes carried out in 2015–2016, nine had concluded with agreements between indigenous peoples and the State.

36. Indigenous peoples in Canada had treaty or self-government agreements, which Canada was bound to respect. Canada must consult with or secure agreement from indigenous government (as set out in such agreements) when developing and implementing legislative, policy or administrative measures that affected the rights of indigenous peoples. Canada submitted that it was also in the process of undertaking an extensive review to ensure compliance on the part of the Crown with aboriginal and treaty rights.

37. Mexico had ensured that indigenous peoples were consulted during the development of the National Development Plan by holding consultation meetings with representatives of indigenous peoples and communities. Furthermore, 22 state constitutions and 24 state laws recognized the right to consultation and participation of indigenous peoples and indigenous communities. In 2004, the Government of Mexico had also established the Advisory Council of the National Commission for the Development of Indigenous Peoples. That body had become the main organ of participation and consultation for indigenous peoples.

38. Answers from indigenous peoples' organizations described situations ranging from complete exclusion from decision-making to pro forma processes for participation, carried out by the State simply to comply with protocols, but not in good faith. Other organizations stated that the non-recognition of their indigenous status by Government authorities hampered any attempts to participate in decision-making.

E. Cultures and languages

39. The questionnaire posed the following question: "Have specific legislative, policy or administrative measures been adopted to implement rights relating to cultures and languages? If yes, please provide details. If not, please outline any plans to develop legislative, policy or administrative measures in this area."

40. The Government of Finland safeguarded Sami-language social welfare and health-care services by way of a separate discretionary transfer that was paid out through the Sami Parliament. In 2016, the discretionary transfer amount was €480,000. The Sami Parliament prepared an annual plan for the spending of that money. The discretionary government transfer was a key channel for the Sami people to influence the provision, organization and contents of services arranged for them and thus to steer the way in which Sami language and culture were maintained and developed in their homelands. On 3 July 2014, the Government had made a decision in principle on a programme to revive the Sami language, concerning all Sami languages spoken in Finland, which it considered to be under threat. The measures for the revival of language were under way and included securing funding for "language nest" activities and increased allocations for the production of teaching materials in the Sami language.

41. The response of Denmark and Greenland referred to the 2009 Act on Greenland Self-Government, which recognized the Greenlandic language as the official language in Greenland.

42. Australia provided funding support to maintain, preserve and transmit the estimated 250 languages spoken in the country. That funding supported community-based activities, languages research and the development of language resources. Aboriginal languages were also now being taught in some schools and, in 2016, had been included in the New South Wales Higher School Certificate for the first time. Aboriginal languages were also supported though the Australian Curriculum, Assessment and Reporting Authority's draft Framework for Aboriginal Languages and Torres Strait Islander Languages.

43. The Plurinational State of Bolivia responded by outlining the Avelino Siñani Law, which had created the Plurinational Institute of Languages and Cultures. The Institute had the objective of promoting the development of indigenous languages and culture, which it achieved through the creation of the various language and cultural institutions for each indigenous group, of which there were currently 16. Furthermore, the Ministry of Education had ensured the production of school textbooks in 23 indigenous languages. Education curricula were also permitted to be adapted regionally to ensure that the Bolivian education system remained plurinational. There were currently 11 regional-specific curricula.

44. Peru reported the strengthening of its national register of interpreters and translators of indigenous languages, as well as the development of the National Plan for Intercultural Bilingual Education.

45. According to Canada, the federal Department of Canadian Heritage was responsible for administering funding related to the Aboriginal Peoples Program, which supported retention and revitalization of culture, heritage and language. Canada negotiated treaties and other self-government agreements with indigenous peoples and those agreements also provided individual groups with the ability to protect their language and culture.

46. In Mexico, the National Commission for the Development of Indigenous Peoples was the government agency responsible for implementing rights relating to culture and languages. The Commission had carried out several initiatives since 2014 to improve the implementation of those rights. Those initiatives had covered a wide range of topics, including art, food, music, dance, film, traditional ceremonies, crafts, contemporary indigenous literature and traditional medicine. For example, to ensure access to justice for

indigenous peoples, the Commission had established a system that allowed an indigenous person to access legal services in his or her indigenous language through the provision of translators. It was estimated that, in the period from 1 December 2012 to 31 May 2016, the Commission had provided language support services to 3,888 indigenous persons.

47. Indigenous peoples' organizations described advances in that area, in one case with support from the private sector. In other cases, while constitutional recognition of indigenous languages existed, there were no measures taken to ensure their promotion and protection.

F. Non-discrimination and equality

48. The questionnaire posed the following question: "Have specific legislative, policy or administrative measures relating to non-discrimination and equality been adopted? If yes, please provide details. If not, please outline any plans to develop legislative, policy or administrative measures in this area."

49. Finland had the new Non-Discrimination Act (1324/2014), which provided for the appointment of the Non-Discrimination Ombudsman and expanded the scope of protection against discrimination. The Act applied to all public and private activities and included obligations for public authorities to develop "equality plans" concerning education and employment. The Act was overseen by a new tribunal, which covered all grounds of discrimination and could undertake conciliation between parties and impose fines in order to reinforce its decisions.

50. Discrimination and vilification on the basis of race was prohibited in Australia under the Racial Discrimination Act 1975 and individuals who experienced such discrimination could make a complaint to the Australian Human Rights Commission.

51. Article 9 of the Constitution of the Plurinational State of Bolivia stated that one of the essential functions of the State was to create a just society, free from discrimination and exploitation. Article 14 of the Constitution stipulated that the State prohibited and sanctioned all forms of discrimination. The country also had a law against racism and all forms of discrimination. That law had the objective of establishing mechanisms and processes to prevent and sanction acts of racism and all forms of discrimination.

52. Peru reported on measures taken in the health sector to ensure indigenous peoples' access to health services on a non-discriminatory basis, as well as to ensure that those services were intercultural in nature. Peru also had a national policy on the mainstreaming of a multicultural approach, which was mandatory for all State institutions.

53. Canada responded that it had a constitutional and legislative framework protecting the rights of indigenous peoples, including in relation to discrimination and equality. It was also launching an inquiry to address known forms of gender-based discrimination related to the transmission of Indian status.

54. Mexico guaranteed the right to non-discrimination and equality through its national constitution, as well as through various legislative instruments, such as article 3 of the General Law for Equality between Men and Women. The National Commission for the Development of Indigenous Peoples also contributed to the protection of those rights through various national programmes, such as the National Programme for Equality and Non-Discrimination 2014-2018.

55. Responses from indigenous peoples' organizations emphasized that, despite constitutional and/or legislative guarantees, structural discrimination against indigenous peoples persisted.

G. Lands, territories and resources

56. The questionnaire posed the following question: "Have specific legislative, policy or administrative measures been adopted to implement rights relating to lands, territories and resources? If yes, please provide details. If not, please outline any plans to develop legislative, policy or administrative measures in this area."

57. The response of Finland referred to the new Fishing Act (379/2015), according to which a person who resided permanently in certain municipalities had a right to obtain a permit from Metsähallitus concerning fishing in State-owned water free of charge. There were some exceptions to that provision, however.

58. The Government of Denmark and the Government of Greenland were currently in the process of resolving a claim to the continental shelf north of Greenland. The claim area was for approximately 895,541km^2 beyond 200 nautical miles of the coast of Greenland. The claim material had been submitted to the Commission on the Limits of the Continental Shelf through the Secretary-General, in accordance with the United Nations Convention on the Law of the Sea, ratified by the Kingdom of Denmark in 2004.

59. The response of Australia stated that there were state and federal legislative schemes that recognized Aboriginal peoples' rights to lands and territories. Under the Aboriginal Land Rights (Northern Territory) Act 1976, the Aboriginal Lands Trust could apply for inalienable freehold title to be granted. About 50 per cent of the land mass of the Northern Territory was covered under the Act, as was about 80 per cent of the coastline. Therefore, it was one of the most significant pieces of land rights legislation in Australia. At the federal level, the Native Title Act 1993 provided an avenue for indigenous claimants to seek native title recognition of their land under Australian law.

60. The Plurinational State of Bolivia responded that its Constitution guaranteed the possession, access and title of indigenous territories in the framework of their self-determination and their right to autonomy, self-governance and culture. Since 2006, the State had transformed the agrarian property structure and now 23.9 million hectares of land belonged to indigenous communities. In 2015 alone, the State had awarded 295,000 titles of land to indigenous peoples and communities.

61. Peru reported on measures to prevent illegal logging on indigenous territories, as well as on measures to recognize the collective ownership of lands through formal titles.

62. Canada outlined the recognition and protection of aboriginal and treaty rights under section 35 of the Constitution. That framework provided indigenous peoples with the right to participate in decision-making on matters affecting them, including on lands, territories and resources. Comprehensive land agreements also received constitutional protection and provided for ownership, use and management of land and resources.

63. Indigenous peoples' organizations' responses highlighted a range of issues: from a complete lack of legislative measures to address their claims over their lands, to situations in which, despite constitutional recognition of their lands and territories, demarcation processes had not moved forward sufficiently and land invasion and resource extraction persisted.

H. Treaties, agreements and other constructive arrangements with States

64. The questionnaire posed the following question: "Have specific legislative, policy or administrative measures been adopted to implement rights relating to treaties, agreements and other constructive arrangements with States? If yes, please provide details. If not,

please outline any plans to develop legislative, policy or administrative measures in this area."

65. Finland was in the process of negotiations for a Nordic Sami convention intended to develop the status of the Sami as an indigenous people. It had also ratified the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity. The Government was furthermore in the process of ratifying International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the ratification bill would be based on a study that drew on international norms, experiences and practices concerning the rights of indigenous peoples.

66. In Australia, international treaties and international human rights were given recognition through various laws designed to implement such rights domestically, such as the Race Discrimination Act 1975. All bills of Parliament must also be scrutinized in accordance with the Human Rights (Parliamentary Scrutiny) Act 2011, which required that bills be accompanied by a statement of compatibility assessing the compatibility of the proposed legislation with the human rights recognized under the core human rights treaties Australia had ratified.

67. Canada had a constitutional and legislative framework that protected indigenous peoples' rights to participate in decision-making that affected them, including in relation to treaties, agreements and other constructive arrangements with the State. Canada also negotiated modern-day treaties and self-government agreements with indigenous groups and those agreements provided that Canada would consult with indigenous groups before agreeing to international obligations that could have an adverse impact on the group.

68. In response to the question, the Plurinational State of Bolivia highlighted the implementation of the first stage of a programme intended to protect indigenous peoples who lived in voluntary isolation or were in initial contact.

I. Indigenous women, youth, children, elders, persons with disabilities and any other vulnerable group

69. The questionnaire posed the following question: "Please describe any particular measures taken to promote and protect the rights of indigenous persons belonging to the following groups: women, youth, children, elders, persons with disabilities and any other vulnerable groups (such as lesbian, gay, bisexual and transgender persons). If no such measures have been taken, please outline any plans to do so."

70. Finland noted that the Sami Parliament had identified the priority areas for the discretionary funding transfer for 2016 as being services for older people and health care. The Ministry of Justice had also established an intergovernmental network of contact persons for fundamental human rights, which would be tasked with developing a national action plan on fundamental human rights. Gender equity policies were pursued under the Ministry of Social Affairs and Health, which ensured gender was included in all areas of decision-making and the Sami people were included in that work.

71. In Finland, Sami children were entitled to child health services similar to all other children in a municipality. The Government supported Sami youth through the Youth Council of the Sami Parliament, which promoted the linguistic and cultural rights of young Sami people.

72. Denmark and Greenland referred to legislation passed in 2014 to recognize "legally fatherless" Greenlanders, i.e. children born out of wedlock who had no rights to inheritance from their fathers. The Danish parliament had introduced legislation to improve the rights

of such persons by allowing them to initiate proceedings to determine who their father was and establishing inheritance rights. Furthermore, Greenlanders living in Denmark affected by social vulnerability were supported as part of the strategy for vulnerable Greenlanders living in Denmark, for which 13.4 million krone had been earmarked for the period 2013-2016.

73. The response of Australia referred to federal, state and territory anti-discrimination laws, which protected individuals from discrimination, including women, children, persons with disabilities and lesbian, gay, bisexual and transgender persons.

74. Peru stated that its emphasis had been on three groups: indigenous persons without identity documents; indigenous peoples living in border areas with difficult access; and indigenous women.

75. Canada reported that it had specific measures for the promotion and protection of the rights of women, youth, children, persons with disabilities and other vulnerable groups. The Constitution also contained the Charter of Rights, which protected human rights.

76. Mexico stated that it promoted and protected the rights of indigenous persons belonging to vulnerable groups through the National Commission for the Development of Indigenous Peoples, which had facilitated the release of indigenous persons from incarceration, provided translation and interpreting services in indigenous languages and promoted the rights of indigenous women. The Commission had also spearheaded a variety of programmes that focused on such topics as the following: violence against women; the full exercise of citizenship rights by indigenous youth; improving the productivity of projects run by indigenous people, with a focus on women; school attendance rates for indigenous children and youth; infrastructure for indigenous communities, including housing, with a focus on single mothers and persons with disabilities; and the electoral rights of indigenous peoples, with a focus on indigenous women.

J. Raising awareness about the Declaration

77. The questionnaire posed the following question: "Has the State taken measures to raise awareness about the Declaration among various sectors of society, including parliamentarians, the judiciary, the civil service and indigenous peoples?"

78. The Ministry for Foreign Affairs in Finland was in the process of publishing the Declaration, as well as the outcome document of the World Conference on Indigenous Peoples.

79. Denmark advised that, as a member State of the European Union, it contributed actively to bringing European Union policies into line with the Declaration. It had provided the European Union with a senior national adviser on indigenous issues to support an update of the European Union policy and guidelines on indigenous peoples.

80. Australia had provided information previously (in 2014 and 2015) about its efforts in that regard.

81. Peru discussed training programmes carried out by the Ministry of Culture to improve awareness of collective rights enshrined in national and international legal frameworks. Those programmes had reached 4,454 indigenous leaders, 2,384 civil servants, and 508 members of the general public.

82. Canada has promoted the Declaration in society at large and with indigenous peoples, parliamentarians and civil society. The Government of Canada had announced the country's full support for the Declaration without qualification and had outlined plans on how it could be implemented domestically in accordance with the Constitution.

83. Mexico had carried out training programmes on the Declaration through local events and projects aimed at indigenous peoples and run by civil society organizations and the National Commission for the Development of Indigenous Peoples. During the period from 1 July 2015 to 30 May 2016, training was also provided to 762 civil servants on a range of human rights issues, although none of the topics focused specifically on the Declaration.

84. Indigenous peoples' organizations reported measures taken to increase awareness of indigenous peoples' rights, including dissemination of printed copies of the Declaration, radio progammes and training.

K. Challenges

85. The questionnaire posed the following question: "What are the main challenges encountered in adopting measures and implementing strategies to achieve the ends of the Declaration?"

86. Finland observed that a major challenge in that regard concerned the rights of Sami people who did not live in their homelands, as was the case for 60 per cent of Sami people. Sami people who lived outside of their homeland had the constitutional right to language and culture and were assisted with educational needs. There were some Sami cultures (including Skolt Sami and Inari Sami) that were described as being on the "verge of extinction", as not many people now spoke the language. Another challenge concerned Sami victims of violence and discrimination. As the community was relatively small, there was concern about confidentiality of sensitive issues. Some issues related to health and social services were also seen as "taboo" and, to counter those challenges, the Government had incorporated special measures into its standard service.

87. Australia noted that barriers existed due to differences in Aboriginal and Torres Strait Islander life experiences, geography, discrimination and other factors. Australia had previously responded to the question and would appreciate hearing from other Member States as to best practices. Australia had previously provided information about the matter, including: the need for evidence to inform the development of programmes and policies; the importance of engagement of Aboriginal and Torres Strait Islander peoples; and the recognition of the need for assessment and flexibility in programme design and delivery to assist in achieving the aims of the Declaration. Australia referred to the National Aboriginal and Torres Strait Islander Health Plan 2013-2023 and its implementation plan, which recognized the need to support Aboriginal and Torres Strait Islander well-being through ensuring connection to land, culture and community, as well as the need to ensure that indigenous peoples were involved in the planning, design, delivery and implementation of health services.

88. Denmark and Greenland reported on a round table held by the International Work Group for Indigenous Affairs in October 2015 on indigenous peoples and the post-2015 development agenda. One of the issues discussed was how to link the implementation of the Declaration to the implementation of the Sustainable Development Goals.

89. According to Canada, the main challenge was to ensure that indigenous peoples were full partners in the implementation of the Declaration and the development of an action plan. Modern treaty and agreement-making processes had also proven to be very challenging for complex reasons and efforts were under way to increase the efficiency of such processes.

90. Mexico stated that one of the main challenges for States was how to work collaboratively with indigenous peoples to implement measures consistent with the aims of the Declaration. For example, a priority for the Government of Mexico was the development of a national action plan for the implementation of the outcome document of

the World Conference on Indigenous Peoples; however, that must be done in such a way that it respected and was in compliance with the rights of indigenous peoples.

91. Some indigenous peoples' organizations reported that their recognition as distinct peoples constituted an overarching challenge. Other challenges included a lack of political will from State authorities, language barriers, gaps in the legal framework and a lack of financial resources among indigenous peoples' organizations to carry out their mission.

L. Best practices

92. States and indigenous peoples were asked to provide examples of best practices regarding possible appropriate measures and implementation strategies to attain the goals of the Declaration. The following practices were described by States in their responses.

93. Finland was engaging its Government and the Sami Parliament in talks concerning the World Conference on Indigenous Peoples and was mapping out relevant national action. It had organized meetings of government representatives with indigenous peoples from Denmark, Finland, Norway and Sweden, including in relation to the review of the Expert Mechanism, as well as the participation of indigenous peoples at the United Nations.

94. In Finland, Metsähallitus was also enhancing measures to strengthen the participation of the Sami Parliament and the Skolt Sami Village Council in planning the management and use of State-owned lands and waters in the Sami homeland. It had developed methods for participatory planning. For example, the management plan for the Hammastunturi Wilderness Area was based on article 8 (j) of the Convention on Biological Diversity. Another example of best practice, according to the State, was reflected in section 49 of the Environmental Protection Act (572/2014), which concerned the granting of environmental permits and imposed the precondition for the granting of such permits that the planned activities would not weaken the Sami people's opportunities to carry on traditional livelihoods or otherwise maintain and develop their cultures.

95. Denmark and Greenland responded that they worked closely to promote indigenous peoples rights at the international level. A recent example was the fifteenth session of the Permanent Forum on Indigenous Issues, where Denmark and Greenland had prepared two national statements and participated in four joint Nordic statements in support of the rights of indigenous peoples.

96. In Australia, the Aboriginal community-controlled health sector was described as a model of self-determination. The Aboriginal community-controlled health organizations had the following key attributes in common: they were incorporated Aboriginal organizations, initiated by local communities, based in local communities, governed by an Aboriginal body elected by the community and delivering holistic and culturally appropriate health services to the community. The importance of the Aboriginal community-controlled health organizations was recognized in the National Aboriginal and Torres Strait Islander Health Plan 2013-2023 and subsequent implementation plan, which built on the Declaration and recognized the importance of indigenous partnerships.

97. The Constitution of Canada recognized aboriginal rights and ensured that the Crown was responsible for any breach of such rights, which had led to a substantial body of jurisprudential law in support of aboriginal rights. The Government would also be engaging with indigenous peoples to develop an action plan to implement the Declaration at the national level.

98. Mexico provided a range of examples of best practice that contributed to achieving the goals of the Declaration. Those examples focused specifically on programmes carried out by the National Commission for the Development of Indigenous Peoples. For example,

under the National Register of Bilingual Indigenous Lawyers, between 1 January 2013 and 30 June 2016, 198 indigenous lawyers had been trained on a range of indigenous legal issues, such as land rights of indigenous peoples and communities. The purpose of that programme was to improve the availability of legal services that were relevant to the specific legal issues of indigenous peoples, as well as being sensitive to the cultural and linguistic needs of indigenous peoples.

99. Good practices highlighted by indigenous peoples included the joint ownership and management of lands in national parks and programmes to teach indigenous languages to civil servants.

M. Use of the studies and advice of the Expert Mechanism

100. The questionnaire posed the following question: "Have the thematic studies and advice of the Expert Mechanism been used in the formulation of laws, policies and programmes pertaining to indigenous peoples' rights?"

101. According to Australia, the thematic studies of the Expert Mechanism provided a background to support policy and programme development. They also provided an opportunity to learn from other States and to provide different perspectives. The studies had not yet been used directly in the formulation of laws, policies and programmes but rather the information was being used indirectly.

102. Mexico stated that the National Commission for the Development of Indigenous Peoples was guided by the studies and advice of the Expert Mechanism when carrying out its work and specific programmes.

103. Several indigenous peoples' organizations reported that, to their knowledge, the studies and advice of the Expert Mechanism were not being used by States when formulating laws and policies concerning indigenous peoples.

III. Concluding comments

104. **The Expert Mechanism on the Rights of Indigenous Peoples very much appreciates the responses of States and of indigenous peoples and indigenous peoples' organizations to its questionnaire, in particular first-time respondents. The responses received allow the Expert Mechanism to evaluate some of the advances and challenges in the implementation of the Declaration from the perspective of both States and indigenous peoples. However, the Expert Mechanism regrets the relatively low number of responses received and the fact that many States with indigenous peoples did not submit any information on their laws, policies and practices related to the implementation of the Declaration.**

105. **The majority of responses received from States provide very general information. While information was provided on laws, policies and programmes relating to indigenous peoples, there was almost no information indicating the effectiveness of the measures taken. Most States provided only positive answers to questions. Answers outlining challenges would also provide a greater understanding of the barriers faced by States when implementing the Declaration.**

106. **The responses received suggest that very few States have developed comprehensive national strategies to implement the Declaration. Given the interdependence and interrelated nature of the rights contained in the Declaration, its implementation requires comprehensive approaches and actions, as highlighted in the outcome document of the World Conference on Indigenous Peoples.**

107. **Several responses from States showed encouraging progress in terms of efforts to adopt national legislation relating to indigenous peoples' right to participate in decision-making. However, it was not always clear whether States were following the obligation to seek indigenous peoples' free, prior and informed consent.**

108. **Responses from indigenous peoples provide examples of approaches and activities, including advocacy and awareness-raising, development of resources on the Declaration, training for indigenous communities and organizations, and translating the Declaration into indigenous languages.**

109. **However, few of the representatives of indigenous peoples who responded proposed overarching strategies for implementation of the Declaration. That may partly be due to the fact that most of the indigenous respondents work at the local level and are generally limited by a lack of financial resources and, in some cases, by a lack of will from State institutions to cooperate and engage with indigenous peoples.**

110. **Several responses from both indigenous peoples' organizations and States point towards the fact that indigenous women, children, youth and persons with disabilities are in a particularly vulnerable situation. Targeted measures must be taken to address the situation of those groups.**

111. **Most indigenous peoples' organizations reported a lack of attention devoted by States in considering the Declaration and, more generally, the rights of indigenous peoples. Those concerns hamper the effective implementation of the Declaration.**